

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BUC-EE'S, LTD.,

Plaintiff,

v.

BUCK'S, INC. and STEVEN BUCHANAN,

Defendants.

Case No. 8:17-cv-00287

STIPULATED MOTION AND ORDER OF DISMISSAL WITH PREJUDICE

This matter is before the Court on the parties' Stipulated Motion for an Order of Dismissal with Prejudice with respect to the claim not previously dismissed, with prejudice, pursuant to the Court's Memorandum and Order dated February 9, 2018 [ECF No. 149]; and referral to binding arbitration of certain determinations pursuant to the parties' settlement agreement.

BACKGROUND

On February 9, 2018, this Court issued its Memorandum and Order [ECF No. 149], which Memorandum and Order is incorporated herein by reference. As part of that Memorandum and Order, the Court ordered, in part:

1. The Motion for Summary Judgment, ECF No. 86, filed by Defendants Buck's, Inc., and Steven Buchanan, is granted, in part, as follows:
 - a. Counts IX, X, and XI of the Amended Complaint are dismissed, with prejudice;
 - b. Counts I-VIII of the Amended Complaint are dismissed, with prejudice;
 - c. Buc-ee's claim for breach of contract based on Buck's use of its BUCKY'S mark in Texas, as asserted in Count XII of the Amended Complaint, is dismissed, with prejudice;
 - d. Buc-ee's claim for breach of contract based on Buck's use of the word "Buc-ee's", as asserted in Count XII of the Amended Complaint, is dismissed with prejudice;

The Motion is otherwise denied, without prejudice;

[ECF No. 149, Page ID 5839]

The parties have now informed the Court that they have reached a resolution with regard to the remaining claim in the case and that they have agreed to submit to binding arbitration certain determinations pursuant to the parties' settlement agreement. The Court finds that Buc-ee's remaining claim not dismissed by the Court's Memorandum and Order dated February 9, 2018 [ECF No. 149] is dismissed with prejudice.

With respect to the referral to arbitration, the arbitration shall take place on or before the 11th day of October, 2018. The Court orders that upon the completion of the above-referenced arbitration, the Court shall be advised as to the result of the binding arbitration, at which time the Court shall enter judgment in accordance with the binding arbitration.

Dated this 10th day of September, 2018.

BY THE COURT:

Laurie Smith Camp
Chief United States District Judge

STIPULATED BY COUNSEL OF RECORD:

BUCK'S, INC. and STEVEN BUCHANAN, BUC-EE'S, LTD., Plaintiff,
Defendants

By: /s/ Patrick C. Stephenson (by permission)

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CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2018 a true and correct copy of the foregoing document will be served upon counsel of record via electronic mail through the United States District Court's CM/ECF system.

/s/ Katherine L. Fink